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Morgan Stanley Smith Barney, LLC

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

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THE SPARTA GROUP, INC.,

Plaintiff,

v.

MORGAN STANLEY SMITH BARNEY, LLC,

Defendant.

Civil Action No. 10-5508 (DMC)

**NOTICE OF MOTION FOR
SUMMARY JUDGMENT**

Return Date: January 18, 2011

ORAL ARGUMENT REQUESTED

TO: Charles Quinn, Esq.
GRAHAM CURTIN, P.A.
4 Headquarters Plaza
P.O. Box 1991
Morristown, New Jersey 07962-1991

PLEASE TAKE NOTICE that on Tuesday, January 18, 2011, at 9:00 a.m. or as soon as counsel may be heard, defendant Morgan Stanley Smith Barney, LLC (“MSSB”), through its attorneys, Marino, Tortorella & Boyle, P.C. (Kevin H. Marino, Esq., appearing) will move before the Honorable Dennis M. Cavanaugh, U.S.D.J., United States District Court for the District of New Jersey, U.S. Post Office & Courthouse Building, Federal Square, Courtroom 4, Newark, New Jersey 07101, for entry of an Order, pursuant to Rule 56 of the Federal Rules of

Civil Procedure, granting summary judgment in MSSB's favor and against Plaintiff, and thereby dismissing Plaintiff's Complaint in its entirety and with prejudice.

PLEASE TAKE FURTHER NOTICE that in support of this motion, MSSB will rely on the Memorandum of Law, the Certification of John A. Boyle (and the documents and certifications attached thereto), and the Statement of Undisputed Material Facts Pursuant to L. Civ. R. 56.1 submitted herewith. A proposed form of Order is also submitted herewith.

PLEASE TAKE FURTHER NOTICE that MSSB respectfully requests oral argument on this motion.

Dated: December 15, 2010

MARINO, TORTORELLA & BOYLE, P.C.
Attorneys for Defendant Morgan Stanley
Smith Barney, LLC

BY: /s/ Kevin H. Marino
KEVIN H. MARINO